

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

Konovik 51117
P. I.

FILE: B-218318

DATE: May 1, 1985

MATTER OF: Cosmos Engineers, Inc.

DIGEST:

1. GAO will not disturb an agency's decision to exclude protester from the competitive range on the ground that it had no reasonable chance of being selected for award where the agency considered the relative superiority of the three other offerors determined in the competitive range, each of whose proposals were higher ranked technically and substantially lower in cost.
2. Initial competitive range determinations are based upon initial proposals so that a firm that does not submit its best price at the first opportunity runs the risk of being excluded from further competition for the award.

Cosmos Engineers, Inc. (Cosmos), protests its exclusion from the competitive range under request for proposals (RFP) No. F30602-85-R-0002 issued by the Department of the Air Force (Air Force).

We deny the protest.

The solicitation called for the development of test plans for Air Force communications equipment. The solicitation provided that technical factors would be first in relative order of importance among all evaluation factors and that price would be second. The solicitation further provided that award would be made on the basis of the proposal which is most advantageous to the government, taking into account technical competence, price and other evaluation factors.

Four proposals were received by the December 18, 1984, closing date and scored in accordance with the stated evaluation criteria. All four proposals, including Cosmos',

were found to be technically acceptable; however, because Cosmos' proposal was substantially higher priced and lower ranked technically than the other three proposals, the contracting officer determined that Cosmos did not have a reasonable chance for award and eliminated it from the competitive range.

Cosmos contends that the Air Force had no reasonable basis for excluding its proposal from the competitive range. Cosmos argues that, since its proposal is technically acceptable, the firm would have a reasonable chance for award if given the opportunity to submit a (revised) competitively priced proposal. In this respect, Cosmos explains that, by deleting "technical enhancements" to its proposal, the firm would be able to reduce its price significantly. Cosmos maintains that the Air Force has improperly refused Cosmos the opportunity to make such proposal changes and remain in the competition.

Initially, we point out that the competitive range is determined by comparing all of the acceptable proposals in a particular procurement, 52 Comp. Gen. 718 (1973), and an acceptable proposal may be eliminated by comparing the relative ranking of the higher ranked proposals to the proposal in question. JDR Systems Corp., B-214639, Sept. 19, 1984, 84-2 C.P.D. ¶ 325. Consequently, a proposal need not be included in the competitive range simply because it is technically acceptable when it is determined that it has no reasonable chance for award. The Liberty Consortium, B-215042, Apr. 12, 1985, 85-1 C.P.D. ¶ ____; JDR Systems Corp., B-214639, supra.

Here, the record shows that Cosmos' proposal was compared to three proposals that were both higher ranked technically (by a significant number of points) and substantially lower in cost. Given this relative difference in both cost and technical considerations, we see no basis for questioning the reasonableness of the contracting officer's determination to retain only three top ranked firms in the competitive range, and to eliminate Cosmos' lower ranked proposal (which had to overcome both a technical and cost disadvantage) from further consideration. JDR Systems Corp., B-214639, supra.

Further, while it may be as Cosmos argues that the firm is ready to reduce its price substantially, we point out that the record shows that at the time of the competitive range determination, the procuring agency had no reason to

believe that Cosmos could make a significant reduction to have a reasonable chance at the award. In this respect, initial competitive range determinations are based upon initial proposals so that a firm that does not submit its best price at the first opportunity always runs the risk of being excluded from further competition for the award. Informatics General Corp., B-210709, June 30, 1983, 83-2 C.P.D. ¶ 47.

for *Stephen Efron*
Harry R. Van Oleve
General Counsel